

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8432
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TOM JACKSON, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-92-CR-25-1

- - - - -
March 17, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Tom Jackson appeals his conviction for possession with intent to distribute "crack" cocaine in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2.

Jackson argues that the district judge violated Fed. R. Crim. P. 11(d) and thus committed reversible error when he failed to question Jackson whether his guilty plea resulted from discussions with the attorney for the Government. This argument lacks merit. The issue was addressed during the plea hearing in

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Jackson's presence, where the district judge indicated that he omitted to ask the question because Jackson did not have a plea agreement. Jackson alleges no other Rule 11 error. Nor does the record suggest any other error or omission. The district court adequately addressed the "core concerns" under Rule 11, including whether Jackson's plea was made voluntarily and without threats or coercion. See United States v. Bachynsky, 934 F.2d 1349, 1354 (5th Cir.) (en banc), cert. denied, 112 S.Ct. 402 (1991). To the extent that the district court's omission was error, it was harmless because it failed to deprive Jackson of any "substantial rights." Id.; see Fed. R. Crim. P. 11(h).

Jackson also argues that counsel was ineffective. Because Jackson raises this issue for the first time on direct appeal and this is not one of those rare cases where the record adequately allows appellate review of the merits, this Court will decline to address it. See United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988).

For reasons set forth above, the conviction is AFFIRMED without prejudice to Jackson's right to raise his ineffectiveness of counsel claim in a 28 U.S.C. § 2255 motion.